APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
RANDALL LAWRENCE KILTY,
Defendant-Appellant.
No. 71-1562

Order

Before: KOELSCH, BROWNING, and DUNIWAY, Circuit Judges

The judgment is affirmed. *Ehlert* v. *United States*, ... U.S. ..... (1971).

Dated: July , 1971

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
RANDALL LAWRENCE KILTY,
Defendant-Appellant.
No. 71-1562

Order

Before: KOELSCH, BROWNING, and DUNIWAY, Circuit Judges

The petition for rehearing is denied.

Dated: July 22, 1971

APPENDIX C

Amendment Involved

V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Regulation Involved

Section 1625.2 of the Selective Service Regulations (32 C.F.R. § 1625.2 (E. O. 10292, 16 F. R. 9862, Sept. 28, 1961)) provides:

> "*When registrant's classification may be reopened and considered anew.*—The local board may reopen and consider anew the classification of a registrant (1) upon the written request of the registrant, the government appeal agent, any person who claims to be a dependent of the registrant, or any person who has on file a written request for the current deferment of the registrant in a case involving occupational deferment, if such request is accompanied by written information presenting facts not considered when the registrant was classified, which, if true, would justify a change in the registrant's classification; or (2) upon its own motion if such action is based upon facts not considered when the registrant was classified which, if true, would justify a change in the registrant's classification; *provided,* in either

event, the classification of a registrant shall not be reopened after the local board has mailed to such registrant an Order to Report for Induction (SSS Form No. 252), unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control."

APPENDIX D

ACTION COPY

24 Jul 71 0414z

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FOR AMNOR—AGFP
SUBJ: APPL FOR SEP AS CONOBJTR

APPL SGN BY PVT MARTIN A RUSH, SSAN 588-88-6961, HHC, 3RD SN, 1ST BCT BDE, FT ORD, CA 93941, IS DISAPPROVED. 'APPLICANT LACKS THE DEPTH OF CONVICTION REQUIRED TO QUALIFY FOR DISCHARGE AS A CONSCIENTIOUS OBJECTOR!' ALSO 'APPLICANT'S PROFESSED VIEWS BECAME FIXED PRIOR TO HIS ENTRY INTO THE ACTIVE MILITARY SERVICE.' EM SHOULD BE NOTIFIED OF THIS DECISION ASAP. ONCE EM HAS BEEN NOTIFIED OF DECISION ANY PNDG PERS ACTION SHOULD BE TAKEN. APPL BEING RETURNED TO EM USC. REQUEST ACKNOWLEDGEMENT WITHIN 72 HRS OF REC.

BT

G695B

APPENDIX E

DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., January 15, 1971.

MR. WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel,
Department of Justice,
Washington, D.C. 20530

DEAR MR. REHNQUIST: You asked me to explain the nature and duties of the Department of the Army, 1-O Conscientious Objector Review Board.

As you know, Army Regulation 635-20 provides that the entire file of the conscientious objector applicant, including the application form with all enclosures, reports of interview, the recommendation of the hearing officer, and the Department of Defense Summary Sheet for Review of Conscientious Objector Application, will be forwarded to the Adjutant General by the officer exercising general court-martial jurisdiction over the applicant. Although not mentioned in the regulation, upon receipt of the file, the Adjutant General reviews the file to ensure that all the necessary papers are enclosed and then forwards it to the Department of the Army 1-O Conscientious Objector Review Board.

The 1-O Conscientious Objector Review Board has been delegated the authority by the Deputy Chief of Staff for Personnel on behalf of the Secretary of the Army to render a final decision on the applicant's request for discharge on conscientious objector grounds. The Board itself is comprised of four members; only three need be present to constitute a quorum for voting purposes. The president of the board is a senior officer who has the ministerial

responsibility of scheduling and calling for votes on a particular case. The additional members include an officer in the Judge Advocate General Corps, a chaplain, and a Medical Corps officer.

Each member sitting on the particular case will be provided a copy of the file for his review and study. After appropriate study of the file, the members of the Board will, at a meeting of all members sitting on the case, vote to grant or deny discharge to the applicant in light of the facts of the particular case and according to the types of conscientious objector claims which are recognized under AR 635-20. Where the applicant receives a majority vote in his favor, or where there is a tie vote, his request for discharge as a conscientious objector will be approved. A written decision is prepared by the Board which is then sent back to the Adjutant General, who then informs the applicant of the decision through the appropriate chain of command.

You also asked whether the Army allows a soldier to file for discharge in instances where his conscientious objector views are fixed after notice of induction but prior to entry into the military service. Present practice grants the soldier the opportunity to file in such cases. Department of the Army military and civilian personnel who worked in this field in 1965 indicate that the Army also followed this practice in 1965.

I hope that this information serves your needs.

Sincerely,

ROBERT E. JORDAN, III,
General Counsel.

JAR 635-20 "... will not be considered."